

Modernize Pest Control Act

Summary of Proposal: Update definitions in the Pest Control Act, Title 35 Article 4, to better align with model legislation written by the National Plant Board, establish a process for Federal recognition of State-managed control programs and quarantines of non-regulated plant pests, create a new cash fund for emergency pest control measures, and allow for program cost recovery.

Rationale for Proposal: The proposal will provide the Colorado Department of Agriculture (CDA) with the resources to conduct plant pest control operations as Colorado sees an increase in destructive non-native pests. Recent outbreaks of Emerald Ash Borer and Japanese Beetles have caused significant damage and resulted in economic losses and additional costs to local governments. Under current law, CDA can recuperate costs only from producer groups when such costs are incurred in connection with response actions in production agricultural areas; however, the Emerald Ash outbreak occurred primarily in urban areas and CDA was unable to recover its response costs.

Proposed Changes:

Establishment of an emergency invasive pest response cash fund.

- Allow CDA to recover costs from local governments, citizens, and businesses for services provided under the Act. Cost recovery for services would be voluntary and the result of an agreement between CDA and the external party.
- Allow for the transfer of a portion of unused funds at the end of a fiscal year from the Plant Industry Division into the emergency invasive pest response cash fund for purposes of implementing the act.

Federal Recognition of State-managed Phytosanitary Programs and Quarantines of non-regulated Plant Pests - new section 35-4-110(4)

- The Department may work cooperatively with the Secretary of Agriculture or designee to implement a Federally Recognized State-Managed Phytosanitary program when such a program would economically or environmentally assist with mitigating the spread of a regulated non-quarantine pest. The Department may promulgate quarantines for non-regulated plant pests when such quarantines apply to individual plant pests having an economically unacceptable impact and for which measures to control achieve an acceptable level of control.

New Definitions added to 35-4-102

- (10) Article - refers to any material or tangible object that could harbor plant pests.

- (11) Certificate - an authorized document prepared by the Commissioner or his/her authorized representative that affirms, declares, or verifies the plants, plant products, or other regulated article meets those quarantine guidelines outlined and are free to move without restriction.
- (12) Eradication - the elimination of a plant pest based on absence determined by negative verification survey for the target pest.
- (13) Federally Recognized State-Managed Phytosanitary Program - a program designed to recognize state official control programs to eradicate or contain a plant pest that is not regulated by the lead federal agency and affords equivalent protection at ports of entry for the same pest when the states to which it is destined are under official control.
- (14) Official Control - official actions taken by plant pest regulatory agencies to eradicate or suppress plant pests with the goal of eliminating isolated plant pest infestations.
- (15) Permit - an authorized document prepared by the Commissioner or his/her authorized representative allowing the movement of noncertified regulated articles to a specified destination for specialized handling, utilization, processing or for treatment.
- (16) Plant Product - any flower, fruit, vegetable, root, bulb, seed or other plant part that is not included in the definition of plant or any manufactured or processed plant or plant part.
- (17) Public Nuisance - means a plant, plant product, conveyance, premises, or article that harbors, is infested or infected with, is liable to spread, or is exposed to a plant pest, communicable or infectious disease, noxious weed or arthropod that may cause damage or harm to, or whose eradication, treatment, or control may benefit persons, industries, or communities within the state, regardless whether it may damage or harm the public generally.
- (18) Regulated Article - any article of any character, carrying or capable of carrying a plant pest for which quarantine has been established.
- (19) Regulated Non-quarantine Pest - a non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the United States or the State by an authorized plant protection organization.
- (18) Quarantine - prohibitions or restrictions imposed by the Department as a means for mitigating pest risk.
- (19) Suppression- measures that are undertaken to reduce the plant pest population and limit the spread.

Feedback: Please provide written feedback on these proposals by October 23rd using this google form <https://forms.gle/LQ4Es82T5D5SFCXP8>

What are Federally Recognized State Managed Phytosanitary Programs (FRSMP)?

- Colorado enforces plant protection and quarantine regulations/procedures within our borders to address pests of concern.
- The plant pests that Colorado may be concerned about do not always mirror the pests that the Federal Government is concerned about and/or fund.
- To address and strengthen USDA's Animal and Plant Health Inspection Service's (APHIS) safeguarding system and to protect agriculture and facilitate trade through effective phytosanitary measures, APHIS initiated the Federally Recognized State Managed Phytosanitary Program (FRSMP)
- FRSMP establishes an administrative process for granting Federal recognition to State-managed official control programs.
- Federal recognition of a State's pest control activities will justify Federal inspectors at ports of entry helping exclude pests that are under a phytosanitary program designation State.
- The process involves the use of information collection activities:
 - Submission of a petition of protocol for state pests of concern
 - A petition for non-quarantine pests,
 - State cooperative agreements
 - Audit review annual accomplishment reports.